

IN THE HIGH COURT OF JUDICATURE AT PATNA
Govt. Appeal (DB) No.13 of 1989

Against the judgment of acquittal dated 16th February, 1989 passed by Sri L. W. Kujur, 2nd Additional Sessions Judge, Munger in Sessions Trial No. 464 of 1982 and 272 of 1982.

The State of Bihar Appellants

Versus

1. Jugal Mandal son of Girdhari Mandal
2. Rajendra Mandal son of Mahbir Mandal
3. Ramchandra Mandal Son of Mahabir Mandal
4. Mukund Mandal Son of Mahabir Mandal
5. Shankar Mandal son of Thakur Mandal
6. Umakant Mandal son of Thakur Mandal
7. Mahabir Mandal son of Hari Mandal
8. Thakur Mandal son of Hari Mandal
9. Ram Bilash Mandal son of Faqir Mandal
10. Dilip Mandal son of Mohar Mandal
11. Narsingh Mandal son of Chethru Mandal
12. Ganesh Mandal son of Maharaj Mandal
13. Umesh Mandal son of Maharaj Mandal
14. Saryug Mandal son of Jagarnath Mandal
15. Faqir Mandal Son of Mishri Mandal
16. Kuldeep Mandal Son of Baidyanath Mandal
17. Singheshwar Mandl son of Bhum Mandal
18. Kamo Mandal Son of Pradip mandal
19. Gurudeo Mandal son of Chandra Mandal
20. Rajaram Mandal son of Shiv Mandal
21. Sbhit Lal Mandal Son of Baidyanath Mandal
22. Cahndra Mandal Son of Badri Mandal
23. Prakash Mandal son of Hari Nath Mandal
24. Yogendra Mandal Son of Narayan Mandal
25. Bijoy Mandal Son of Radhe Mandal
26. Bittan Mandal Son of Kuldeep Mandal
27. Subodh Mandal Son of Biswanath Mandal

All resident of village- Kadarganj, P.S. Kharagpur, District- Munger

..... Respondent/s

Appearance :

For the Appellant/s : Mr. Ashwini Kumar Sinha, APP

For the Respondent/s : Mr. Ved Prakash, Advocate

Mr. Abhishek Kumar, Advocate

**CORAM: HONOURABLE MR. JUSTICE SHYAM KISHORE
SHARMA**

and

**HONOURABLE MR. JUSTICE AMARESH KUMAR
LAL**

ORAL JUDGMENT

**(Per: HONOURABLE MR. JUSTICE SHYAM KISHORE
SHARMA)**

Date: 14-09-2012

Above noted Govt. Appeal is directed against the judgment dated 16th February, 1989 passed in Sessions Trial No. 464 of 1982 and 272 of 1982 whereby the respondents above named were acquitted from the charges under sections 426, 302/34 and 302/149 of the Indian Penal Code.

2. On the basis of fard-beyan of Khyali Mandal recorded in Kharagpur Hospital on 5.12.1981 at 10.30 AM, formal FIR was registered as Kharagpur P.S. Case No. 211 dated 5.12.1981 under sections 148, 149, 302, 324, 337, 342, 448 and 426 of the Indian Penal Code. After drawing the formal FIR, the investigation started and after completion of investigation, chargesheet was submitted. Since the case was triable by the court of Sessions, it was committed to the court of Sessions where the charges were framed and explained to the accused persons/respondents to which they pleaded their innocence and trial proceeded.

3. The finding of the Trial Court was that the prosecution has suppressed the genesis of occurrence. The injuries on the side of the



accused were not explained, so it has been submitted that the prosecution case was nothing but the imagination of the prosecution and has tried to conceal the real version. The Trial Court after hearing the submissions and after going through the depositions opined that the definite case of the prosecution is of the injuries on other side. This has not been challenged. There is no explanation that how the injuries occurred. In support of the case, eight witnesses were examined. Considering the fact that the prosecution has concealed the real version and has tried to prove the case against the accused, the Trial Court found that the correct version has not been brought on record and so the accused persons were held not guilty and acquitted them from the charges. The accused persons were discharged and that order has been challenged.

4. It is well settled that an order of acquittal can only be interfered with if it is beyond the record or the materials placed on the record have not been discussed. The Trial Court has taken pain to discuss all the evidence which had come against the accused persons and after threadbare analysis of the evidence, has come to its opinion. The opinion of the Trial Court is based upon the sound reasoning and all the materials available on the record were looked into. Such order of acquittal cannot be interfered with.

5. After hearing the both sides, we are of the view that

the order of the Trial Court does not require any interference of this Court. In the result, this government appeal is held to be without merit and it is accordingly, dismissed.

(Shyam Kishore Sharma, J)

(Amaresh Kumar Lal, J)

Patna High Court
Dated 14th September, 2012
Avin.